

APPEAL NO. 042300
FILED OCTOBER 25, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 28, 2004. The hearing officer determined that the appellant's (claimant) _____, compensable injury does not include an injury to the low back.

The claimant appeals on sufficiency of the evidence grounds. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

It is undisputed that the claimant, a school custodian, sustained a compensable injury on _____, when she slipped and fell backward. In dispute is whether the claimant sustained a low back injury in that fall. Although the claimant initially had a complaint of low back pain, subsequent medical and therapy notes, beginning on December 20, 2000, make no mention of low back complaints until September 2001. A Texas Workers' Compensation Commission (Commission)-required medical examination (RME) doctor, in a report dated January 20, 2004, commented that neither the medical records nor his examination could relate the claimant's low back complaints to the compensable injury of _____.

The disputed issue in this case involved a factual question for the hearing officer to resolve. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given to the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The hearing officer's decision is supported by the Commission's RME doctor's report. Nothing in our review of the record indicates that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **NORTH AMERICAN SPECIALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Margaret L. Turner
Appeals Judge